

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JAMES ARTHUR SMITH, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-3502

CORPORAL DAVIS, FNU,
Western Regional Jail;
CORPORAL DIAMOND, FNU,
Western Regional Jail,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that Defendants' motions to dismiss (ECF Nos. 20, 30) be granted and Plaintiff's amended complaint (ECF No. 9) be dismissed, with prejudice. Neither party has filed objections to the Magistrate Judge's findings and recommendations.¹

¹ The Court notes that in response to Plaintiff's letter of April 8, 2018 requesting copies of documents, on April 12, 2018, the Clerk of Court sent Plaintiff documents that had been returned undeliverable due to an insufficient address as well as a copy of his docket sheet to aid him in deciding which documents he would like to receive. The Proposed Findings and Recommendations were filed and sent to Plaintiff on April 10, 2018 (prior to his address update). Approximately three weeks have passed since the Clerk's letter was mailed, and Plaintiff has not requested a copy of the findings.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **ORDERS** that Defendants' motions to dismiss (ECF Nos. 20, 30) be **GRANTED** and Plaintiff's amended complaint (ECF No. 9) be **DISMISSED, with prejudice**, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: May 4, 2018

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', is written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE